

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO**

<b>UNITED STATES OF AMERICA, et</b>	:	<b>CASE NO.: 1:02-cv-00107</b>
<b>al.,</b>	:	
	:	
<b>Plaintiffs,</b>	:	<b>JUDGE S. ARTHUR SPIEGEL</b>
	:	<b>MAGISTRATE HOGAN</b>
<b>v.</b>	:	
	:	<b>RESPONSE TO WASHINGTON</b>
	:	<b>REQUEST FOR REVIEW</b>
<b>BOARD OF HAMILTON COUNTY</b>	:	
<b>COMMISSIONERS, et al.</b>	:	
	:	
<b>Defendants.</b>	:	

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The City and County Defendants ("MSD") respond to Ada Washington's Motion for Review (Doc #201) as follows:

1. The MSD investigated Mr. Washington's claim through the City of Cincinnati's claims office. The City's Claims Administrator is Shirley Lenzly.
2. Ms. Lenzly determined that the furniture items claimed by Ms. Washington remained in her possession, and that Ms. Washington had been previously compensated by the City for lost personal items in the amount of \$15,120. (Attached as Exhibit A). Her home had been involved in a previous incident caused by the same grease backup.
3. In fact, Ms. Washington confirmed verbally that she had purchased the furniture in her basement from the proceeds of the last settlement, and intended to keep the furniture. (Exhibit B).

4. The MSD determined that Ms. Washington's backup was caused by either a grease back-up or an overload of the main sewer. Thus, because it was possibly a result of the incapacity of the sewer system, the MSD determined to pay the claim. The grease back-up was apparently not from the Washington property, but an adjacent apartment complex (Attached Complaint Form, Exhibit C).

5. Ms. Washington submitted estimates for both drywall repair and carpet replacement. The MSD's offer included the amount for drywall repair (\$2538.24) and carpet replacement (\$1299 and \$3936.04). The remainder of the MSD offer (approximately \$2000) was for personal items, excluding the furniture retained by the Washingtons.

8. The City of Cincinnati made a final settlement offer to Ms. Washington of \$9,593.51. The City made this offer in part because Ms. Washington retained the \$11,000 worth of furniture claimed and because it could not confirm the \$2500 of "money inside bank book," claimed by Ms. Washington. Nor could the City confirm that Ms. Washington had \$2800 worth of food in her refrigerator. Nor could the City confirm that the Washingtons lost a substantial number of photos valued at \$1595. The City asserts that \$2000 adequately compensates her for the personal items that were removed.

Accordingly, the MDS defendants request that the Court separately review the claimed damages, and that thereafter the City be allowed to tender its settlement for \$9,593.51.

**Respectfully submitted,**

**JULIA L. MCNEIL (0043535)**  
**City Solicitor**

/s/ Terrance A. Nestor

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 9, 2007 a true and accurate copy of the foregoing Response was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system and copies will be mailed to those parties who are not served via the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Terrance A. Nestor

Terrance A. Nestor (0065840)  
Sr. Assistant City Solicitor